

REMARKS

Claims 1-20 are pending in the application. Claims 1-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Wildfeuer et al. (U.S. Patent No. 6,298,055) in view of Sato et al (U.S. Patent No. 6,078,882). Of the Claims, Claims 1, 7, 14, 19 and 20 are independent claims. The Applicant respectfully traverses the rejections.

The Applicant claims a method and apparatus for identifying the type of audio stored in the payload of a data packet. The state of a non-speech identifier included in a header in the received data packet identifies the type of audio stored in the payload of the received packet as non-speech or speech. Jitter buffer latency can be modified in a receiver dependent on the state of the non-speech identifier included in the header. In one embodiment, a user definable marker field in an RTP header is defined as the non-speech identifier. (See Page 6, lines 17-22; Page 7, lines 4-9 in the Applicant's specification as originally filed.)

Wildfeuer is directed to a transmitter that detects DTMF symbols in a digitized audio stream and stores the DTMF symbols in the payload of a packet. (See Wildfeuer Abstract and Col. 2, lines 42-57.) Sato is directed to a transmitter that identifies whether speech stored in the payload of a data packet is a speech spurt for purposes of deciding whether to add noise.

None of the cited art singly or in combination teaches or suggests storing "a non-speech identifier with the audio in the data packet", the non-speech identifier being stored in a header of the data packet" as claimed by the Applicant in independent Claim 1.

Sato discusses detection of speech spurts and extraction of speech during hangover periods immediately following transitions of speech spurts to pauses. Only speech spurts and extracted speech during hangover periods are transmitted in a payload of a data packet, both of which are speech. Sato's discussion of an identifier to indicate whether the payload is a speech spurt or extracted speech during a hangover period, for purposes of deciding whether to add noise in a receiver does not teach or suggest the Applicant's claimed "non-speech identifier". Furthermore, Sato does not even suggest storing non-speech audio in the payload of the data packet. Instead, Sato's receiver generates the non-transmitted background noise upon detecting non-receipt of data packets and inserts the generated noise into a pause. (See Fig. 1 (noise interpolator (9)); Fig. 2; Fig. 3; Fig. 5; Col. 4, lines 50-57; Col. 5, lines 16-17; Col. 5, line 67 - Col. 6, line 10; and Col. 6, lines 44-51.)

There is no suggestion to combine Wildfeuer and Sato, and even if combined they fail to teach the claimed "non-speech identifier in the header of a received data packet" which is used to determine "if non-speech audio is stored in the payload of the data packet."

The above quoted claim language is in base Claims 1, 7, 14, 19 and 20. Claims 2-6 are dependent on Claim 1, Claims 8-13 are dependent on Claim 7 and Claims 15-18 are dependent on Claim 14 and thus include this limitation over the prior art.

Thus, neither Wildfeuer nor any of the cited prior art teach or suggest the Applicant's claimed method and apparatus which detects the state of the non-speech identifier in the header of the received data packet to determine if non-speech audio is stored in the payload of the data packet. Accordingly, the present invention as now claimed is believed to be patentably non-obvious over the cited art. In view of the foregoing, removal of the rejections under 35 U.S.C. § 103(a) and acceptance of Claims 1-20 are respectfully requested.

CONCLUSION

In view of the above remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By


Caroline M. Fleming

Registration No. 45,566

Telephone: (978) 341-0036

Facsimile: (978) 341-0136

Concord, MA 01742-9133

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